55TH CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1463.

AMENDING ACT APPROVED JULY 24, 1897, PROVIDING REVENUE FOR THE GOVERNMENT.

MAY 31, 1898.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. DALZELL, from the Committee on Ways and Means, submitted the following

REPORT.

[To accompany H. R. 10528.]

The Committee on Ways and Means, to whom was referred the bill (H. R. 7647) "A bill to amend the thirtieth section of an act entitled an act to provide revenue for the Government and to encourage the industries of the United States, approved July twenty-fourth, eighteen hundred and ninety-seven," beg leave most respectfully to report that they have had said bill under consideration and have agreed to report a substitute therefor, which is submitted herewith, accompanied by a recommendation in favor of its passage.

The thirtieth section of the existing tariff law provides:

> That where imported materials on which duties have been paid are used in the manufacture of articles manufactured or produced in the United States, there shall be allowed on the exportation of such articles a drawback equal in amount to the duties paid on the materials used, less one per centum of such duties, provided that when the articles exported are made in part from domestic materials, the imported materials or the parts of the articles made from such materials shall so appear in the completed articles that the quantity or measure thereof may be ascertained.

Provision is then made for the identification of the foreign materials in such exported articles, for the ascertainment of the amount of duties paid upon their import, and for proof of manufacture in the United States. Provision is also made as to the party to whom the drawback shall be paid, to wit:

> The manufacturer, producer, or exporter, or the agent of either, or the person to whom such manufacturer, producer, exporter, or agent shall, in writing, order such drawback paid, under such rules and regulations as the Secretary of the Treasury shall prescribe.

This provision as to drawbacks is copied literally from the tariff law of August 27, 1894, commonly known as the Wilson-Gorman law. It was copied into that law from the tariff law of October 1, 1890, commonly known as the McKinley law.

Its manifest purpose is to give to the American manufacturer or producer who desires to compete in foreign markets, and who is compelled, in order to do so, to use, in whole or in part, foreign raw material, the advantage of having such raw material substantially free from customs duties; or, to use the language of the Supreme Court, to make "duty free imports which are manufactured here and then returned," to some foreign country. (Campbell *v.* U. S., 107 U. S., 407.)

The 1 per cent retained by the Government is intended merely to cover the cost of collection.

Provision for a drawback upon imported materials subsequently exported in the shape of manufactured products first appeared in our laws as section 4 of the act of August 6, 1861 (12 Stat., 293; Rev. Stat., 3019). That section was in these words:

> That from and after the passage of this act there shall be allowed, on all articles wholly manufactured of materials imported, on which duties have been paid when exported, a drawback equal in amount to the duty paid on such materials and no more, to be ascertained under such regulations as shall be prescribed by the Secretary of the Treasury: *Provided*, That ten per centum on the amount of all drawbacks so allowed shall be retained for the use of the United States by the collectors paying such drawbacks, respectively.

The differences between the provisions of this original drawback act and the subsequent acts cited are as follows:

First. In the original act drawbacks were allowed only "on all articles *wholly* manufactured of materials imported," etc., while in the subsequent acts the allowance is upon articles manufactured from foreign materials *either wholly or in part*. The purpose of the substitute herewith reported is to make effective this provision so far as the manufactures of metals are concerned.

Second. In the original act only 90 per cent of drawback was allowed; in the subsequent acts 99 per cent is allowed.

Third. In the original act the amount of drawback was to be "equal in amount to the duty paid * * * to be ascertained under such regulations as shall be prescribed by the Secretary of the Treasury;" in the subsequent acts there is a limitation to the effect that the imported materials entering into the manufacture to be exported "shall so appear in the completed articles that the quantity or measure thereof may be ascertained."

In the administration of the law as it has been since 1890 some mischiefs have been discovered that call for remedy.

First. The provision that upon the exportation of articles in the manufacture of which imported materials have been used there shall be allowed a drawback "equal in amount to the duties paid on the materials used," etc., has given rise to controversy.

One construction was placed thereon as applicable to certain cases by the Treasury Department and another construction by a court. The Treasury Department fixed the allowance of drawback where several articles are manufactured from one imported material on the basis of the relative value of the products of manufacture, while the circuit court of the United States for the eastern district of New York decided that the rates must be based upon the relative quantities of the products. The ruling of the Treasury Department has recently been upheld in a decision rendered by the circuit court of appeals, second circuit, in the case of Dean Linseed Oil Company *v.* United States. (See Treasury Decisions, Thursday, May 12, 1898.)

To avoid possibility of further controversy on this subject the substitute reported by your committee provides that the drawback, instead

of being "equal in amount to the duties paid on the (foreign) materials used," etc., shall be "not to exceed the duties paid," etc.

A discretion is thus vested in the Department to so administer the law that its intent may be carried out in all cases with justice both to the exporter and to the Government.

Second. Another mischief of the existing law calling for remedy is this: In the case of manufactures of metals into which foreign ores enter only in part it is impossible to ascertain by sight what proportion of the manufacture is from foreign and what is from domestic ores. If the manufacture is wholly the product of foreign ores ascertainment is easy enough when proof has been made as to the importation in each particular case, as to its identification in the manufacture, and so on, but there is no way to ascertain by sight the proportion of foreign and of domestic ores where they have been mixed.

This mischief the substitute recommended by your committee proposes to remedy by empowering the Secretary of the Treasury to prescribe rules and regulations, whether by affidavit, inspection of manufacture, or otherwise, which shall disclose the actual facts in the case.

That the mischief sought to be remedied is one of large proportions and far-reaching consequences will appear from a statement of some of the figures relating to our foreign trade in metals.

During the nine months ending March, 1898, we exported manufactures of iron and steel to the value of $4,583,331. Of this amount, more than one-half, viz, $2,560,294, represented the value of steel rails. Of the total, almost one-fourth, viz, $1,084,127, was exported to Great Britain.

No figures have been furnished to your committee, and none are at hand to show to what extent foreign ores entered into the manufacture of these exported products, but it must be apparent that to discriminate in favor of exported products made wholly from foreign ores as against those made in part from foreign and in part from domestic ores is to discriminate against the use of the latter.

There are producers of metal manufactures in the neighborhood of our seacoast who are barred from the use of our Northwestern native ores because of freight rates, and who are therefore compelled to use foreign ores, accessible because of cheaper freight rates, for admixture with native ores. This is true of the steel producers of eastern Pennsylvania, New Jersey, and New York. Under existing law the temptation with them is to use foreign ores wholly, principally from Cuba, because upon their product they receive a drawback, while they receive no drawback upon a product the result of an admixture of foreign and domestic ores.

For instance (not to go into details at length), a single company, the Pennsylvania Steel Company, reports that during the current year it has shipped to foreign countries domestic products of steel to the amount of 36,000 tons; that it has now on its books similar orders amounting to 51,000 tons. This represents its business for a portion only of its first year in the foreign trade. It further reports that a conservative estimate of the tonnage which it can easily secure in the foreign trade would be 150,000 tons per annum.

The product thus to be exported can not be made wholly from domestic ores; it must be made either from a mixture of foreign and domestic ores or wholly from foreign ores. If only foreign ores are used a rebate or drawback is allowed. If foreign and domestic ores are used there is no drawback, because the proportion of foreign ores used in

the product can not "so appear in the completed articles that the quantity or measure thereof may be ascertained."

The measure proposed by your committee, therefore, is in the interest of the domestic ore producer, because it enables him to share in the profit to be derived from the export trade by furnishing him a market for his ore. It is also in the interest of our attempt to seize foreign markets by enlarging the possibilities of our export trade in metals.

Third. Another mischief in the existing law is found in the provision relating to the payment of drawbacks. They may be paid, not only to the "manufacturer, producer, exporter, or the agent of either," but also "to the person to whom such manufacturer, producer, exporter, or agent shall, in writing, order such drawback paid," etc.

This has given opportunity for speculation very embarrassing to the Treasury Department in the process of administration.

Speculative entries for drawback are made by persons who subsequently procure authority to collect claims and to retain a large share of the proceeds as compensation for their services. Your committee have been advised by the Treasury Department that the change proposed by the substitute offered is desirable for administrative reasons.

Upon the whole, your committee are of opinion that the changes in existing law proposed by the substitute reported are in the line of reform of administration and that the substitute ought to be passed. They so recommend.

It is proper to say, in addition, that the measure has the indorsement of the Treasury Department, and a letter to that effect is herewith appended.

TREASURY DEPARTMENT, OFFICE OF THE SECRETARY,
Washington, D. C., March 3, 1898.

SIR: In compliance with your verbal request, H. R. bill 7647, to amend the thirtieth section of an act entitled "An act to provide revenue for the Government," etc., approved July 24, 1897, has been the subject of careful consideration by Assistant Secretary Howell, the chief of the customs division, the collector of customs at the port of New York, and myself.

It has been agreed that several changes in the bill as presented to the House are desirable.

It is deemed inexpedient and dangerous to so modify the existing law that all articles produced in part from foreign materials may be exported with the benefit of drawback without the identification of the quantity of such imported material now required by the statute. Such a provision would tend to greatly increase applications for drawback and the difficulties attending the investigation and establishment of proper rates. It is therefore deemed essential that the proposed provision in regard to metals produced in part from foreign ores and in part from domestic ores should stand as it is found in H. R. bill 7647. This proviso, however, more properly belongs to that portion of section 30 which relates to identification of imported materials, and in the inclosed draft of modification of the bill referred to the proviso referred to has been inserted immediately after the first proviso requiring that the imported article "shall so appear in the completed articles that the quantity or measure thereof may be ascertained."

The United States court in Brooklyn a year or two ago overruled the rates of drawback established by the Department on the basis of the relative value of the products of manufacture, and held that these rates must be based upon the relative quantities of the products.

This is believed to be inequitable in many cases. While the decision has been appealed from, if it is sustained it will greatly embarrass the Department. For this reason the language of the present law, as stated in the bill under consideration, namely, "there shall be allowed on the exportation of such articles a drawback equal in amount to the duties paid on the materials used," has been so modified in the inclosed draft of bill (see the first part of the proposed section 30) as to read as follows: "There shall be allowed on the exportation of such articles a drawback not to exceed the duties paid on the materials used," and at the close of the draft

herewith it is also provided, "and the Secretary of the Treasury may prescribe regulations for the determination of the rate of drawback in each case and for the enforcement of the provisions of this section."

The Department is in receipt of a letter from the collector at New York, dated the 28th ultimo, urging that the words in the latter part of House bill 7647, reading as follows: "or to the person to whom such manufacturer, producer, exporter, or agent shall, in writing, order such drawback paid," be omitted in order to prevent speculative entries for drawback by persons who subsequently procure authority to collect the claim and to retain a large share of the proceeds as compensation for their services. This change is also desirable for administrative reasons.

These modifications are considered by the officers of the Department to be very essential.

It is therefore respectfully suggested, for the consideration of yourself and your committee, that the inclosed draft of bill be substituted for House bill 7647, now before your committee.

It will please me very much to be of any further service to you in this or any other matter.

Respectfully, yours,

W. S. CHANCE,
Supervising Special Agent.

Hon. JOHN DALZELL,
House of Representatives.